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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,574	04/22/2002	Micheal J Reinstein	270538-1P US	3122

22466 7590 04/21/2005

ASTRA ZENECA PHARMACEUTICALS LP  
GLOBAL INTELLECTUAL PROPERTY  
1800 CONCORD PIKE  
WILMINGTON, DE 19850-5437

EXAMINER

COLEMAN, BRENDA LIBBY

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/009,574

### Applicant(s)

REINSTEIN ET AL.

### Examiner

Brenda L. Coleman

### Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

Claims 1-11 are pending in the application.

This action is in response to applicant's amendment filed December 22, 2004.

Claim 12 was canceled.

### *Response to Amendment*

Applicant's amendments and arguments filed December 22, 2004 have been fully considered with the following effect:

1. The applicant's amendment to the title is herein acknowledged.
2. The applicant's amendment to the first line of the specification is herein acknowledged, however, the applicant's are claiming benefit of PCT/GB99/11499, filed May 19, 1999 and PCT/GB00/02762, filed February 8, 2000. The applicant's priority documents are not international patent application numbers but rather they are patent application numbers in the United Kingdom.
3. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejection of claim 12 labeled paragraph 3) in the last office action, which is hereby **withdrawn**.
4. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 101 rejection of claim 12 labeled paragraph 4) in the last office action, which is hereby **withdrawn**.

5. With regards to the 35 U.S.C. § 102, anticipation rejection of claim 11 under 35 U.S.C. 102(b) as being anticipated by Meltzer et al., Journal of Clinical Psychiatry, **1998** (as indicated by the applicants on the PTO-1449 as well as the reference). The applicants stated "that the Examiners reliance on this reference is in error since Meltzer et al., was published August 18, 1999, almost three months after the Applicants priority application". The applicants' effective filing date of the instant application is May 16, 2000 with a claim to priority documents GB 9911499, filed May 19, 1999 and GB 0002762, filed February 8, 2000. Thus any reference prior to May 16, 1999 is a 102(b) against the application and Meltzer et al. was published in 1998.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Meltzer et al., Journal of Clinical Psychiatry, for reasons of record and stated above.


6. With regards to the 35 U.S.C. § 103, obviousness rejection of claims 1-12 under 35 U.S.C. 103(a) as being unpatentable over Meltzer et al., Journal of Clinical Psychiatry, **1998** (as indicated by the applicants on the PTO-1449 as well as the reference). The applicants stated "that Meltzer et al., does not predate Applicants priority application filed on May 19, 1999". However, as stated above in response to the 35 U.S.C. § 102, anticipation rejection, the applicants' effective filing date of the instant application is May 16, 2000 with a claim to priority documents GB 9911499, filed May 19, 1999 and GB 0002762, filed February 8, 2000. Thus any reference prior to May 19, 1999 is prior art under 35 U.S.C. § 103(a) against the application and Meltzer et al. was published in 1998.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meltzer et al., Journal of Clinical Psychiatry, for reasons of record and stated above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Brenda L. Coleman  
Primary Examiner Art Unit 1624  
April 17, 2005